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Letter dated 21 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from El Salvador, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the text of the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: Spanish]

Note verbale dated 21 December 2001 from the Permanent Mission of El Salvador to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of El Salvador to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and, in connection with the note dated 29 October 2001 and pursuant to paragraph 6 of the resolution, has the honour to transmit the first report of the Government of El Salvador on the steps that it has taken or is taking, in conformity with the guidance to States set forth in resolution 1373 (2001) and reaffirmed by the Security Council Committee (see enclosure).

Enclosure

Report of the Republic of El Salvador submitted to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001)

San Salvador, 20 December 2001

Introduction

This report is the outcome of coordination among the government agencies responsible for the formulation, implementation and monitoring of national measures in response to Security Council resolution 1373 (2001), adopted on 28 September 2001 on the basis of Chapter VII of the Charter of the United Nations, which called on all States to take steps to combat international terrorism and to report on the measures in place or contemplated.

After the terrorist actions in the United States, El Salvador expressed its firm condemnation and complete rejection of those actions and pledged to take the necessary steps and action at the national, regional, inter-American and international levels to combat terrorism.

At the Central American level, on 29 September 2001 in Honduras, the Presidents of the region issued the declaration "Central America united against terrorism", by which they instructed the Central American Security Commission and the region's directors of migration and police to take appropriate action to counter and prevent terrorism in Central America.

On 25 October 2001, the Central American Security Commission adopted the "Central American Plan for Comprehensive Cooperation to Prevent and Combat Terrorism and Related Activities", which sets out strategic actions that will contribute to the security of individual Central Americans and of the Central American States.

At the inter-American level, El Salvador has been taking a very active part in counter-terrorism efforts. On 21 September 2001, El Salvador and the other member States of the Organization of American States (OAS) adopted the resolution "Strengthening hemispheric cooperation to prevent, combat and eliminate terrorism", which calls on States to take effective measures to combat terrorism.

El Salvador also supported the resolution "Terrorist threat to the Americas", adopted the same day at the Twenty-fourth Meeting of Consultation of Ministers of Foreign Affairs acting as Organ of Consultation in application of the Inter-American Treaty of Reciprocal Assistance, which invokes the principle of solidarity among signatory countries.

Moreover, within the framework of the Inter-American Committee against Terrorism (CICTE), El Salvador, through its Permanent Representative to OAS, Ambassador Margarita Escobar, is currently chairing the work plan subcommittee, which provides support to the Inter-American Committee in carrying out its activities.

At the national level, El Salvador has set up an Inter-agency Group against Terrorism (GRICTE),* entrusted primarily with preparing a joint national report pursuant to Security Council 1373 (2001) and with tackling the issue of terrorism on an ongoing basis. In view of the comprehensive approach which the issue requires, four subgroups have been set up, dealing with, respectively, security; border and migration controls; financial controls; and legal issues.

The present report has been prepared on the basis of the "Guidance for the submission of reports pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001".

Accordingly, the report describes the steps that El Salvador has taken or is taking, as well as the legal framework that exists for combating terrorism, pursuant to the obligations incumbent on all States as set forth in paragraphs 1, 2 and 3 of resolution 1373 (2001).

It also describes other action taken by El Salvador in various fields outside the spheres mentioned in the resolution and details El Salvador's technical cooperation and financial assistance needs. The laws and regulations cited in the report are annexed to it.

* GRICTE is made up of the following: Ministry of Foreign Affairs, Ministry of the Interior, Ministry of National Defence, Ministry of Finance, National Civil Police, Directorate of Migration, State Intelligence Agency, Office of the Attorney-General of the Republic and Office of the Financial Superintendent.

Report of the Republic of El Salvador submitted to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001)

Paragraph 1

(a) Prevent and suppress the financing of terrorist acts

What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)?

Measures taken

- The Inter-agency Group against Terrorism, comprising four subgroups — border and migration controls, financial controls, security and legal issues — was set up to identify measures, actions, mechanisms, procedures and legislation in place in El Salvador.
- The Government responded to the United States request concerning groups or individuals that provide financial support to terrorist activities, based on the list drawn up by the Financial Crimes Enforcement Network (FinCEN).

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts

What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

Activities criminalized and penalties established

- The wilful provision or collection of funds, by any means, to carry out terrorist acts fall under the following criminal offences:
- **Incitement and conspiracy**[1] **to commit terrorist acts**, which are punishable by six months' to two years' imprisonment (article 344 of the Penal Code).
- **Unlawful association**, which is punishable by: **(a)** two to eight years' imprisonment if two or more persons agree to organize or do organize to engage in conducts which, by themselves or in conjunction with others, have as their aim the commission of crimes; **(b)** five to 10 years' imprisonment if the object of the group, organization or association is to commit the crimes of homicide, aggravated homicide or kidnapping (article 345 of the Penal Code). If the crime of aggravated homicide actually takes place, the corresponding penalty is increased by an additional penalty of 30 to 50 years' imprisonment (article 129 (2) of the Penal Code); if the crime of kidnapping actually takes

[1] According to article 23 of the Penal Code, "There is incitement when the person who has decided to commit a crime asks another person or other persons to carry it out and to help him carry it out". There is conspiracy "... when two or more persons agree to commit a crime and decide to carry it out".

place, an additional penalty of 30 to 45 years' imprisonment is imposed (article 149 of the Penal Code).

- **Complicity**: article 36 of the Penal Code characterizes as accomplices or accessories: **(a)** all those who cooperate *in such a way that*, without such cooperation, the crime could not have been committed, in which case the penalties range from the legal minimum for the crime to two thirds of the legal maximum for the crime (article 66 of the Penal Code); and **(b)** those who cooperate *in any other way* in the commission of a crime, even by promising to provide assistance after the crime has been committed, in which case the penalties range from the legal minimum for the crime to half the legal maximum, but may in no case be greater than two thirds of the penalty imposed on the perpetrator (article 66 of the Penal Code). Terrorist acts are punishable by five to 20 years' imprisonment (article 343 of the Penal Code) and the crime of aggravated homicide is punishable by 30 to 50 years' imprisonment (article 129 (2) of the Penal Code).

- **Organized crime**[2] (article 22A of the Penal Code)

• The **Act against Money Laundering** imposes eight to 12 years' imprisonment and a fine of 50 to 2,500 monthly minimum wages, computed in accordance with article 4 of the Act, for the following acts: "(a) In any way concealing or disguising the nature, origin, location, destination, movement or apparently legal ownership of funds, property or rights thereto which are a direct result of criminal activities; (b) acquiring, owning and using funds, property or rights thereto, knowing that they derive from criminal activities, for the purpose of legitimizing them".

Crimes subject to the Money Laundering Act include kidnapping (article 149 of the Penal Code), unlawful enrichment (article 333 of the Penal Code) and illicit negotiations (article 328 of the Penal Code).

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of, such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities

What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

[2] Understood as " ... that form of crime which is characterized by the fact that it is carried out by a group of persons dedicated to maintaining a hierarchical structure in order to plan and execute illegal acts with the aim of enriching themselves with illicit property and services or to engage in terrorist activities. Organized crime also means conducts which, by themselves or in conjunction with others and committed by two or more persons, have as their aim or result the commission of the crimes of ..., aggravated homicide ..., unlawful association ..., terrorist acts, ...".

Existing laws and procedures

Article 186 (Illegal fund-raising) of the **Banking Act** gives the Office of the Financial Superintendent the power, if it suspects a possible infringement of the law, to undertake the corresponding administrative investigation, reporting thereon to the Office of the Attorney-General of the Republic.

The Superintendent must also order the suspension of the fund-raising activities and publish that order once, by such means as he deems appropriate, to warn the public about those activities.

Once the possible infringement of the law has been established, the Superintendent must request a judge of the commercial court, as a precautionary measure, to freeze all funds which the alleged wrongdoer has on deposit at institutions belonging to the financial system and to seize all his property for a period of up to 180 days, attaching certification of the relevant passages of the corresponding administrative trial documents; if the alleged wrongdoer is a company, the commercial judge will be requested to freeze the funds and seize the assets not only of the company but also of its administrators, whether directors or managers, up to the amount of the funds raised thus far according to the reports submitted by the Superintendent. The judge must decide within three working days whether or not to accede to the request and, if not, must substantiate his decision.

If the funds raised are not returned within 180 days, the Superintendent must apply to the judge for one or more extensions of the freezing of funds and seizure of property.

The Attorney-General of the Republic must request a judge of the criminal court to impose precautionary measures, if there are grounds for doing so, on individuals who may be in violation of the provisions of this article; if the possible wrongdoer is a company, he will request the same measures in respect of its administrators, whether directors or managers. He must also request the judge to freeze funds and seize property as stipulated in the second paragraph of this article if the Superintendent has not already made such a request.

With regard to banking secrecy, the final paragraph of article 232 of the Banking Act states that: "banking secrecy shall not impede the investigation of crimes nor prevent the seizure of property".

- Article 143 of the **Non-banking Financial Intermediaries Act** regulates banking secrecy, stating that such secrecy shall not impede the investigation of crimes nor prevent the seizure of property.

- The **Money Laundering Act** establishes the following with respect to exceptions to banking secrecy and precautionary measures:

  Article 24

  "Banking secrecy and confidentiality in tax matters shall not apply in the investigation of the crime of money-laundering; the information received shall be used solely for evidential purposes in the investigation and may be obtained only by order of the Attorney-General of the Republic or of the judge in the case at the appropriate moment in the proceedings".

Article 25

"A warrant from the competent judge shall be required in order to seize or require the submission of banking, financial or commercial documents; the judge may issue such warrants at any stage of the proceedings.

The judge may order the freezing of the bank accounts and the preventive seizure of the property of the accused at any time during the investigation or trial.

In cases of urgent need, the Attorney-General of the Republic may order the freezing of the bank accounts of the accused, as well as the funds, rights and property under investigation, in crimes to which this Act refers. However, they may be frozen only for a maximum of 10 days, during which time a report must be made to the competent judge, who shall determine whether or not there are reasonable grounds for that measure under the law".

Article 28 of the Tax Code stipulates that: "The confidentiality of information provided for in this article shall not apply to the Office of the Attorney-General of the Republic or to judges in respect of cases which they are hearing in court, and the Tax Administration shall provide them with such information as they may require in exercise of their powers with regard to the investigation of crimes and the protection of fiscal interests".

– Article 180 (Warrant for seizure) of the **Code of Criminal Procedure** establishes that:

"The judge shall order that objects related to the crime, those subject to seizure and those which may serve as evidence should be collected and preserved; to that end, he shall, where necessary, order their seizure.

In urgent cases, this measure may be ordered by the police or the Office of the Attorney-General of the Republic. In any event, seizure must be approved by the judge within the following 48 hours".

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons

What measures exist to prohibit the activities listed in this subparagraph?

Please refer to the information given in the answer to the previous question with respect to the **Banking Act**, the **Money Laundering Act** and the **Non-banking Financial Intermediaries Act**.

Paragraph 2

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists

What legislation or other measures are in place to give effect to this subparagraph?

The **Penal Code**, article 10 of which establishes the principle of universality:

> "Salvadoran penal law shall also apply to crimes committed by any person in a place not subject to Salvadoran jurisdiction, where such crimes affect property which is internationally protected by specific treaties or norms of international law or involve a serious infringement of universally recognized human rights".

The **Framework Treaty on Democratic Security in Central America**, specifically, the preamble, articles 1, 8, 11 and 18 and other terrorism-related articles:

> "**Article 1**. The Central American democratic security model is based on democracy and the strengthening of its institutions and the rule of law; on the existence of governments elected by universal and free suffrage and secret ballot; and on unconditional respect for all human rights in the States which make up the Central American region.
>
> The fundamental purpose of the Central American democratic security model is to ensure respect for and the promotion and safeguarding of all human rights, and its provisions therefore guarantee the security of the Central American States and their inhabitants through the creation of conditions that permit their personal, family and social development in peace, freedom and democracy. The model is based on the strengthening of civilian power, political pluralism, economic freedom, the eradication of poverty and extreme poverty, the promotion of sustainable development and the protection of the consumer, the environment and cultural heritage; the eradication of violence, corruption, impunity, **terrorism** and trafficking in drugs and arms; and the establishment of a reasonable balance of forces that takes into account the internal situation of each State and the need for cooperation among all the Central American countries in order to guarantee their security.
>
> **Article 8**
>
> For the strengthening of democracy, the Parties reaffirm their obligation to refrain from providing political, military, financial or any other kind of support to individuals, groups, irregular forces or armed gangs which attack the unity and order of the State or advocate the overthrow or destabilization of the democratically elected government of another Party.
>
> In addition, they reiterate their obligation to prevent the use of their territory to organize or carry out armed actions, acts of sabotage, kidnappings or unlawful activities in the territory of another State.
>
> **Article 11**. With the aim of contributing to the consolidation of Central America as a region of peace, freedom, democracy and development, the following objectives are established in this regard:
>
> (...)
>
> (b) To establish or strengthen operational coordination mechanisms for the competent institutions so as to increase the effectiveness of national and regional efforts to combat crime and all threats to democratic security

necessitating the use of military, security or civilian police forces, such as **terrorism**, illicit arms trafficking, drug trafficking and organized crime;

(...)

Article 18. The Parties undertake to prevent and combat, without exception, all criminal activities that have a regional or international impact, such as terrorism, sabotage and organized crime, and to prevent within their territory by all available means the planning, preparation and execution of such activities.

To this end, they shall strengthen coordination and encourage the exchange of information among migration, police and other competent authorities."

In particular, what offences in your country prohibit: (i) recruitment to terrorist groups?

Penal law imposes two to eight years' imprisonment for unlawful association, namely, for all those who agree to organize or do organize to engage in conducts which, by themselves or in conjunction with others, have as their aim the commission of crimes (article 345 of the Penal Code).[3]

Recruitment to terrorist groups falls under the conducts listed in article 22 A of the Penal Code.[4]

(ii) the supply of weapons to terrorists?

- With respect to the supply of weapons to terrorists, article 217 of the Constitution states that:

"The manufacture, import, export, trading, possession and bearing of weapons, ammunition, explosives and similar articles shall be carried out only with the authorization and under the direct supervision of the defence area of the executive branch.

A special law shall regulate this matter".

- The legislation enacted pursuant to the above provision includes the Act for the Control and Regulation of Firearms, Ammunition, Explosives and Similar Articles, whose articles 1, 2, 3 and 4 contain State regulations for the use, manufacture, import and export of and trade in firearms, ammunition, explosives and similar articles. Since the Act has its basis in article 217 of the Constitution, any infringement of the Act constitutes a criminal offence.

- Penal law contains various provisions relating to the use of weapons.

In particular, **terrorist acts** are punishable by "five to 20 years' imprisonment ... The manufacture, procurement, possession or supply of arms, ammunition, explosives or implements for the commission of terrorist acts ..." (article 343 (3)).

[3] See the answer to paragraph 1 (b) above with respect to unlawful association.

[4] See the answer to paragraph 1 (b) above with respect to organized crime.

Possession, bearing or transport of weapons of war: "The possession, bearing or use of one or more weapons of war shall be punishable by three to five years' imprisonment" (article 346).

Manufacture, bearing or possession of or illegal trade in homemade or handmade firearms or explosives: "Anyone who illegally manufactures, bears, possesses or trades in homemade or handmade firearms or explosives, such as muzzle-loading firearms, shotguns or weapons which, using rim-firing or centre-firing percussion cartridges, fire projectiles through a smooth or rifled barrel by means of the expansion of gases produced by the combustion of solid explosives, gunpowder or other flammable materials contained in those cartridges, shall be punished by three to five years' imprisonment" (article 346 A).

Illegal possession, bearing or transport of firearms: "Anyone who possesses, bears or transports a firearm without a licence for its use or the corresponding registration with the competent authority shall be punished by three to five years' imprisonment. If the possessor, bearer or transporter is a repeat offender or has a criminal record, he shall be punished by five to eight years' imprisonment" (article 346 B).

Illegal trade in and storage of weapons: "Anyone who, without authorization, trades in weapons or other articles whose use is regulated by law or who has an arms store or factory shall be punished by one to three years' imprisonment. A store of controlled firearms shall be defined as a collection of five or more such weapons, even if they are disassembled (article 347).

Accomplices: Penal law also punishes all those who cooperate in such a way that, without such cooperation, the crime could not be committed, or cooperate in any other way which facilitates the commission of a crime (articles 36 and 66 of the Penal Code).[5]

What other measures help prevent such activities?

- Special permanent controls have been established at land and sea border points known as "blind crossings", which are used by smugglers for the movement of weapons and the illegal traffic in persons. The Ministry of Finance, the Directorate of Migration, the Salvadoran armed forces and the National Civil Police are coordinating these operations.

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information

What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?

Early warning mechanisms

- The Independent Port Commission's radar, located at El Salvador International Airport, is being used by the National Civil Police and the Salvadoran armed forces for permanent monitoring of Salvadoran airspace in order to detect

[5] See answer to paragraph 1 (b) above with respect to complicity.

aircraft which are not registered as part of scheduled air traffic and prevent Salvadoran territory from being used for activities in support of terrorism.

- Mechanisms for communication and the exchange of information among specialized national institutions and bodies have been established.

- A Cooperation Agreement on Combating Terrorism, Drug Trafficking and Related Activities was signed between the Republic of El Salvador and the Republic of Nicaragua on 24 November 2001, under which the monitoring line established in August 2001 where the territorial waters of the two countries meet in the Gulf of Fonseca and the Pacific Ocean was extended.

- El Salvador is a party to the Tegucigalpa Protocol of 13 December 1991, which provides for a regional security model aimed at the eradication of terrorism (article 3 (b)).

- A mechanism for communication and the exchange of information has been established among the Chiefs of Police of Central America and the Caribbean and among the International Criminal Police Organization (Interpol) National Central Bureaux in the Central American countries.

(c) Deny safe haven to those who finance, plan, support or commit terrorist acts, or provide safe havens

What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be helpful if States supplied examples of any relevant action taken.

Legislation and procedures

- El Salvador has ratified the Convention relating to the Status of Refugees of 1951 and the Protocol relating to the Status of Refugees of 1967. Subparagraphs (a) and (c) of article 1, section F, of that Convention establish that refugee status shall not be granted to any person who has committed a crime against peace, a war crime or a crime against humanity.

Example of a case in which the granting of refugee status to an individual was considered[6]

An application was received in December 1998 from a Lebanese citizen, Mohamed Talal Taleb, who, through CARITAS, formally requested that El Salvador grant him refugee status. A working group composed of representatives of the Ministry of Foreign Affairs and the Ministry of the Interior was formed to consider the application, interview the applicant and make recommendations on the matter. In that instance, it was determined, on the basis of the Convention relating to the Status of Refugees of 1951 and the Protocol relating to the Status of Refugees of 1967 (Official Gazette No. 46, vol. 278, of 7 March 1983), that the applicant did not fulfil the conditions established by international law for the granting of refugee status. That is, it was determined that the applicant did not have a well-founded fear of being persecuted in his country for reasons of race, ethnicity, nationality, religion or

[6] The example given illustrates the consultation procedure followed in considering the granting of refugee status to an applicant, to whom such status was denied. It should be noted that this case was not linked to the commission of terrorist acts.

belief and did not belong to a particular social or political group. Nor could it be demonstrated that he had fled his country of origin because his life, safety or liberty were threatened by the widespread violence or the massive human rights violations occurring there. The applicant was notified of the decision by the Social and Cultural Office of the Ministry of Foreign Affairs, through the regional headquarters of the Office of the United Nations High Commissioner for Refugees (UNHCR).

– A draft special act for determining the status of refugees, which gives effect to the provisions of the Convention relating to the Status of Refugees of 1951, the Protocol relating to the Status of Refugees of 1967 and the Cartagena Declaration on refugees of 1984, is currently before the Legislative Assembly.

The draft stipulates that the provisions of the act shall not apply to any person with respect to whom there are serious reasons for considering that: he has committed a crime against peace, a war crime or a crime against humanity, as defined in the secondary legislation of the Republic of El Salvador and in the international instruments drawn up to make provision in respect of such crimes; he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; or he has been guilty of acts contrary to the purposes and principles of the United Nations.

Under the act, a commission for the determination of the status of refugees would be created to implement it.

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens

What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

Legislation

National

– The Penal Code establishes penalties for terrorist acts (article 343) and defines such acts as a form of organized crime (article 22 A). It also covers incitement and conspiracy to commit terrorist acts (article 344); unlawful association (article 345); international criminal organizations (article 370); advocacy of crime (article 349); and incitement and conspiracy to commit the crime of aggravated homicide (article 129 A).[7]

Provisions relating to the bearing, possession and manufacture of and trade in weapons

- Possession, bearing or transport of weapons of war (article 346 of the Penal Code);
- Manufacture, bearing or possession of or illegal trade in homemade or handmade firearms or explosives (article 346 A of the Penal Code);

[7] For the penalties established for these crimes, see the answer to paragraph 1 (b) above.

- Illegal possession, bearing or transport of firearms (article 346 B of the Penal Code);
- Illegal trade in and storage of weapons (article 347 of the Penal Code).

– Act for the Control and Regulation of Firearms, Ammunition, Explosives and Similar Articles.

– Amendments to the Land Transport, Transit and Highway Safety Act concerning, inter alia, the use of polarized vehicle windows and the checking of licence plates.

– On the financing of terrorist acts, see the answer to paragraph 1 (c) with respect to the **Banking Act**, the **Money Laundering Act** and the **Non-banking Financial Intermediaries Act**.

Regional

– Framework Treaty on Democratic Security in Central America (1995).

Hemispheric (Organization of American States)

– Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance.

– Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials.

– Inter-American Convention to Prevent and Punish Torture.

International (United Nations)

– Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1992 (entered into force on 21 June 1998).

– Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 (entered into force on 1 March 1992).

– Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988 (entered into force on 1 March 1992).

– Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988 (entered into force on 6 August 1989).

– International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.

– Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973 (entered into force on 20 February 1977).

- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971 (entered into force on 26 January 1973).
- Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970.
- Convention on Offences and Certain Other Acts Committed on Board Aircraft.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Geneva Conventions of 12 August 1949 and the four Protocols Additional thereto.

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts

What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

Steps taken

Under article 18 of the Penal Code, serious criminal offences are defined as those which carry a maximum prison sentence of over three years. Terrorist acts are punishable by five to 20 years' imprisonment, so terrorism is considered to be a serious criminal offence.[8]

- The Inter-agency Committee on International Humanitarian Law (CIDIH) of El Salvador, set up by Executive Decree No. 118 of 4 November 1997, is studying amendments which must be made to the Penal Code in the area of international humanitarian law.
- An ad hoc committee has also been created to consider the question of the establishment of the International Criminal Court.

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings

What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.

[8] Other serious terrorism-related offences covered by the Penal Code are: piracy (art. 368), air piracy (art. 369), international criminal organizations (art. 370) and aggravated homicide (art. 129 (2)).

Current procedures and mechanisms

- Under article 182 of the Constitution, the Supreme Court of Justice is empowered to order the sending of letters or commissions rogatory issued for the conduct of proceedings outside the State and to order compliance with those coming from other countries, without prejudice to the provisions of treaties, and for the granting of extradition.[9]

With respect to the execution of letters or commissions rogatory, two situations may arise:

(a) The request may be made from one central authority to another, in which case it is generally the judiciary that makes it, through the Supreme Court, thereby expediting its execution;

(b) The request for legal assistance may be made through the diplomatic channel.

Where no treaty exists, the judicial authorities may request judicial assistance on the basis of reciprocity; such requests are made through the diplomatic channel.

- Implementation of the provisions of articles 11 and 18 of the **Framework Treaty on Democratic Security in Central America**.
- Establishment of a mechanism for communication and the exchange of information among the Chiefs of Police of Central America and the Caribbean and among the Interpol National Central Bureaux in the Central American countries.
- Establishment of information mechanisms through the inter-American information network for Central America, coordinated by the Southern Command of the United States of America.
- Exchanges of information among the anti-drugs Joint Information Coordination Centres connected with the El Paso, Texas, Intelligence Center, and Interpol.

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents

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[9] In this regard, El Salvador has adopted the following instruments: Additional Protocol to the Inter-American Convention on Letters Rogatory; memorandum of understanding on judicial cooperation with Colombia (Official Gazette No. 84, vol. 315, of 11 May 1992); Treaty on the enforcement of criminal sentences between El Salvador and the United Mexican States (Official Gazette, No. 224, vol. 321, of 2 December 1993); Treaty on reciprocal legal assistance in criminal matters among the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama (Official Gazette No. 156, vol. 324, of 25 August 1994); Convention on judicial assistance in criminal matters between El Salvador and Peru (Official Gazette No. 192, vol. 333, of 14 December 1996); Convention on judicial assistance in criminal matters between the Kingdom of Spain and El Salvador (Official Gazette No. 124, vol. 336, of 7 July 1997); Treaty on reciprocal legal assistance in criminal matters between El Salvador and the United Mexican States (Official Gazette No. 215, vol. 337, of 18 November 1997); and Convention on judicial assistance in criminal matters between El Salvador and Ecuador.

How do border controls in your country prevent the movement of terrorists?

Mechanisms in place and action taken

- Permanent migration controls by the National Civil Police and the Salvadoran armed forces in support of the Directorate of Migration at authorized and unauthorized (blind) border crossings to prevent the illicit entry of aliens.
- Permanent vehicular inspections on highways providing international access, and migration controls and inspections at hotels, lodging houses, guest houses, rail and road terminals and other locations frequented by foreigners in El Salvador.
- Monitoring by the Salvadoran armed forces, in support of the National Civil Police under Partial Order No. 15/001, of the illegal traffic in goods and narcotic drugs entering or transiting through the national territory.
- Monitoring of Salvadoran air space and maritime areas and surveillance of Salvadoran land areas by the National Civil Police and the Salvadoran armed forces.
- Migration controls and official investigations by the National Civil Police to detect forged migration documents, break up gangs and arrest forgers of travel documents.
- Exchanges of information with the Immigration and Naturalization Service (INS) of the United States of America.
- Exchanges of information through the Central American Commission for Migration (OCAM).
- Implementation since October 2001 of the "One hundred per cent plan" to ensure monitoring of the transit of goods and persons, through joint task forces made up of members of the National Civil Police and the Salvadoran armed forces, with support from the Ministry of Finance.
- Implementation of the "Falcon Task Force" plan at El Salvador International Airport and the port of Acajutia by the Ministry of Finance, with support from the National Civil Police and the Salvadoran armed forces, in order to strengthen security and monitoring at land, air and sea customs ports.
- Signing on 24 November 2001 of the Cooperation Agreement between the Republic of El Salvador and the Republic of Nicaragua on Combating Terrorism, Drug Trafficking and Related Activities, under which the monitoring line established in August 2001 where the territorial waters of the two countries meet in the Gulf of Fonseca and the Pacific Ocean was extended.
- Recommendation by the Commission of Chiefs of Police of Central America and the Caribbean of measures for the control and monitoring of migration flows, in order to halt any movement of persons linked to terrorism and international organized crime.
- El Salvador is a party to the Tegucigalpa Protocol of 13 December 1991, which provides for a regional security model aimed at the eradication of terrorism (article 3 (b)).

How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?

Action taken

- Issuance of a passport that meets international security standards and incorporates 35 additional security features added in November 1997. These include:
- Cover printed with fluorescent ink.
- Inside cover with: correction fluid-resistant paper, computer graphics, printing in photography-resistant colours, digitized image, latent image printing and microprinted lines.
- Inside pages: printing of fine lines with an iridescent colour effect, printing with invisible fluorescent ink, page numbers printed in both visible and invisible ink and perforated numbering of inside pages.
- Paper: 100 per cent cotton rag, fibres visible under natural light, fibres visible under ultraviolet light, reactivity to ink solvents and watermark incorporated into the paper.
- Inks: ink reactive to the use of solvents and ink removers and ink resistant to photographic reproduction.
- Production process: pages embossed to achieve a uniform format, passport sewn with thread fluorescent under ultraviolet light and thread affixed to the paper with special glue.
- Personal data page: paper printed in a lighter colour in the space for the photograph, protection with a double layer of security film and printing of the underside of the security film with ink that is invisible under ultraviolet light.
- Security features for personal data according to International Civil Aviation Organization (ICAO) standards.
- Additional security features for personal data not included in ICAO standards: fingerprint, printing of a verification sequence of six small characters according to algorithms reserved for the exclusive use of the Directorate of Migration, printing of a group of coloured, two-symbol verifiers according to algorithms reserved for the exclusive use of the Directorate of Migration and printing of a group of coloured verification lines at the bottom of the photograph according to algorithms reserved for the exclusive use of the Directorate of Migration.
- Computerized monitoring of air and overland migration movements.
- Increase from 11 to 15 in the number of countries whose nationals must apply for a visa, with verification within and outside the country of the alien's need to enter El Salvador.
- Replacement of the alien's residency card with a new card incorporating such security features as a photograph, an electronic signature and a magnetic strip for computerized scanning.
- Issuance of driver's licences incorporating electronic security features.

- Issuance of a single identity document, as from 26 November 2001, which will facilitate reliable recording of the existence and identity of individual Salvadorans, with a view to preventing identity fraud. The new document incorporates various kinds of security features which will permit verification of its authenticity and validity, in order to prevent and detect alterations, substitutions or other attempts at forgery. The document has a single identity number, which cannot be changed or reassigned in any circumstances.

What measures exist to prevent forgery, etc. of identity papers? What specific measures are in place to detect forged documents?

Measures

Training of Directorate of Migration and National Civil Police personnel in detecting forged migration documents.

Paragraph 3

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups

What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

Steps taken

- Monitoring coordination with the Directorate of Migration, by the National Civil Police, of the migration movements of persons on the updated FBI list of most wanted persons who are citizens of Middle Eastern countries.
- Exchanges of information in accordance with the agreements reached by the Commission of Chiefs of Police of Central America and the Caribbean relating to the Declaration of the Central American Presidents entitled "Central America united against terrorism".
- Surveillance of vans and trucks transporting goods, from border entry point to destination, by the National Civil Police and the Salvadoran armed forces, in support of the Customs Directorate.
- Physical inspection by the Ministry of Finance, with support from the National Civil Police and the Salvadoran armed forces in implementation of the "One hundred per cent plan", of all goods imported into the country or in transit through it to other countries of the region or beyond, at all land, sea and air customs posts in the country, with a view to preventing illicit trafficking in arms, explosives, drugs and other potentially dangerous and lethal materials.
- Establishment of special permanent controls at land and sea border points, known as "blind crossings", often used by smugglers. The Ministry of Finance,

the Directorate of Migration and the National Civil Police with support from the Salvadoran armed forces, are coordinating these operations.

- Exchanges of information among the member countries of the Central American Commission for Migration (OCAM) regarding travel documents and forged documents which have been confiscated.

- Strengthening of the State Intelligence Agency in order to combat terrorism, as stipulated in article 2 (2) of Legislative Decree No. 554 of 20 September 2001: "Activities against the security of the State shall be defined as all those which potentially threaten the existence or stability of the country's institutions, such as terrorism in any of its forms".

- Measures adopted by the competent national authorities in accordance with the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and on Their Disposal, the Regional Agreement on Transboundary Movements of Hazardous Wastes and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

- It should be noted in this regard that the Environment Act Contains the following provisions: article 57 on the import, transit, distribution and storage of hazardous substances; article 58 on hazardous wastes; article 59 on the prohibition of the import of hazardous wastes; and article 60 on pollution by hazardous substances, residues and wastes. In addition, the Penal Code defines the following offences: article 255: environmental pollution; article 256: aggravated environmental pollution; and article 257: negligent environmental pollution.

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts

What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

Steps taken

- Exchanges of information among the anti-drug Joint Information Coordination Centres connected with the El Paso, Texas, Intelligence Center and INTERPOL.

- Creation of a mechanism for communication and the exchange of information among the Chiefs of Police of Central America and the Caribbean; and among the INTERPOL National Central Bureaux in the Central American countries.

Existing procedures and mechanisms

See the answer to paragraph 2 (f) with respect to the exchange of information.

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts

What steps have been taken to cooperate in the areas indicated in this subparagraph?

Steps taken

At the national level

Creation of the National Commission on National Security by Executive Decree No. 101 of 24 September 2001 to advise the President of the Republic on such criminal activities as drug trafficking, money laundering and terrorism.

Creation and functioning of the Inter-Agency Group against Terrorism, which comprises four subgroups: border and migration controls; financial controls; security; and legal issues.

At the regional level

Establishment of information mechanisms through the inter-American information network for Central America, coordinated by the Commander-in-Chief of the United States Southern Command.

Instruments to which El Salvador was a party before 11 September 2001

- Cooperation Agreement between the Government of the Republic of El Salvador and the Government of the United States of America on access to and use of the facilities of El Salvador International Airport by the United States for the purposes of aerial monitoring of drug-related activity.
- The Tegucigalpa Protocol, which provides for a regional security model aimed at the eradication of terrorism (article 3 (b)).
- See the other instruments listed in paragraph 2 (d) above.

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999

What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

El Salvador is a party to nine United Nations treaties relating to terrorism:

- Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970.
- International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988 (entered into force on 6 August 1989).

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 (entered into force on 1 March 1992).
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988 (entered into force on 1 March 1992).
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971 (entered into force on 26 January 1973).
- Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991 (entered into force on 21 June 1998).
- Convention on Offences and Certain Other Acts Committed on Board Aircraft.

The International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism are currently under examination.

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001)

Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

In accordance with article 144 of the Constitution of the Republic, El Salvador may conclude international treaties with other States or international organizations, which shall constitute laws of the Republic; consequently, national laws are harmonized and amended in order to bring them into line with the international commitments assumed by El Salvador. Furthermore, the corresponding national bodies may be created.

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts

What legislation, procedures and mechanisms are in place for ensuring asylum-seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

Existing legislation, procedures and mechanisms

- Convention relating to the Status of Refugees of 1951;
- Protocol relating to the Status of Refugees of 1967;
- Cartagena Declaration on refugees of 1984.

The Legislative Assembly is currently considering a draft special act for determining the status of refugees, under which a commission for the determination of the status of refugees would be created to implement the act.[10]

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists

What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

Procedures in place to prevent the abuse of refugee status by terrorists

- There are currently no refugee settlements in El Salvador. The mechanisms in place are aimed at ensuring that a thorough investigation is carried out before refugee status is granted to any applicant. This also holds true for requests for asylum. The mechanisms are implemented through the Directorate of Migration, the Ministry of Foreign Affairs and other competent bodies with a view to ensuring, inter alia, that applicants have not participated in terrorist acts.

- Under article 28 of the Constitution, "extradition shall take place when the crime has been committed within the territorial jurisdiction of the requesting State, except in the case of crimes of international significance, and may in no case be imposed for political crimes, even if ordinary crimes are committed as a result.[11]

- Article 10 of the Salvadoran Penal Code, recognizes the principle of universality and article 21 defines crimes against the constitutional system and the existence, security and organization of the State as political crimes. However, it defines the following as serious crimes: terrorist acts (article 343), incitement and conspiracy to commit terrorist acts (article 344) and unlawful association (article 345), as well as other related conduct such as possession,

[10] For more information, see the answer to paragraph 2 (c) above.

[11] El Salvador has adopted the following extradition treaties: Convention on Extradition with Italy; Convention on Extradition of Criminals with Belgium; Supplement to the Convention on Extradition of Criminals with Belgium; Treaty on the Extradition of Criminals with Great Britain; Supplement to the Treaty on Extradition of 11 Criminals with Great Britain; Supplement to the Treaty on Extradition of Criminals with Great Britain; Supplement to the Treaty on Extradition with the United Kingdom of Great Britain and Northern Ireland; Supplement to the Treaty on Extradition with Great Britain; Convention on Reciprocity in the Extradition of Criminals with Switzerland; Treaty on Extradition with the United States of America; Convention on Extradition (Central America); Convention on Extradition (OAS); Treaty on Extradition with Spain; Treaty on Extradition with the Government of the United Mexican States. In addition, El Salvador has adopted other treaties providing for extradition, such as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Official Gazette No. 198, vol. 321 of 25 October 1993, the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, Official Gazette No. 229, vol. 341, of 8 December 1998; and the Inter-American Convention against Corruption.

bearing or transport of weapons of war (article 346), manufacture, bearing and possession of or illegal trade in firearms or homemade or handmade explosives (article 346 A), illegal trade in and storage of weapons (article 347), piracy (article 368), air piracy (article 369) international criminal organizations (article 370) and aggravated homicide (article 129 (2)).

Additional information

A. Other steps taken by El Salvador:

Health and humanitarian controls

- The Ministry of Public Health and Social Welfare is developing a national plan for the prevention, control and treatment of emerging and re-emerging diseases (bioterrorism), in cooperation with the Centers for Disease Control in Atlanta, United States of America, which includes a special plan for travellers entering El Salvador via El Salvador International Airport, as a safety measure against anthrax.
- The Ministry of Agriculture is strengthening the anthrax surveillance system through its Animal Health Division by asking livestock farmers to vaccinate their animals, and has undertaken an anthrax awareness campaign.
- The El Salvador Post Office has adopted preventive measures in the handling of domestic and international incoming and outgoing mail.
- The Humanitarian Assistance and Rescue Unit of the Conference of Central American Armed Forces has been placed at the disposal of the United States Government.

Legislation relating to the illicit circulation of nuclear, chemical, biological and other potentially lethal materials

At the international and hemispheric levels:

- Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (1968).
- Protocol Amending the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (1990).
- Treaty on the Non-Proliferation of Nuclear Weapons (1962, United Nations).
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (1972, United Nations).
- Treaty Banning Nuclear-Weapon Tests in the Atmosphere, in Outer Space and Under Water (1963).
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (United Nations).
- Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare (1925, League of Nations).

- Comprehensive Nuclear-Test-Ban Treaty (United Nations).

- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Arms Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and the two Protocols thereto (1995 and 1996, United Nations).

At the regional level

- Functioning of the Coordinating Centre for Natural Disaster Prevention in Central America (CEPREDENAC) (international cooperation and information exchanges).

At the national level

Penal Code:

Article 262 B: Trade in and transport of hazardous substances.

Article 272: Trafficking in chemicals and harmful substances.

Environment Act:

Article 5: Definition of wastes and hazardous wastes.

Article 55: Compels public and private institutions responsible for carrying out hazardous procedures or handling hazardous substances or waste, to incorporate the national plan on the prevention and handling of environmental emergencies in their institutional planning.

Chapter V (articles 56 to 60) regulates environmental risks and hazardous materials.

B. Cooperation and assistance needs (paragraph 1.4 of the guidance for the submission of reports pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001)

Technical assistance needs

- Training and technical assistance for the executive, judicial and legislative branches and the Public Prosecutor's Office in implementing terrorism-related norms and in developing and implementing plans for the prevention and suppression of terrorism.

Financial assistance needs

- Financial cooperation and institution-building for implementing plans and projects in the migration, borders, police, customs, legislative, health, chemical, biological and radiological areas, among others.